

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of CURTIS HINTON and U.S. POSTAL SERVICE,
POST OFFICE, Popular Bluff, MO

*Docket No. 03-1606; Submitted on the Record;
Issued October 20, 2003*

DECISION and ORDER

Before COLLEEN DUFFY KIKO, DAVID S. GERSON,
WILLIE T.C. THOMAS

The issue is whether appellant established that he sustained an injury in the performance of duty on October 18, 2002.

On October 23, 2002 appellant, a 49-year-old distribution clerk, filed an occupational disease claim alleging that on October 22, 2002 he first realized his back problems were employment related. In support of his claim, he submitted disability slips dated October 22 and 28, 2002 signed by Dr. D.L. Davis, an attending Board-certified family practitioner, stating that appellant was unable to work.

In a letter dated November 1, 2002, the Office of Workers' Compensation Programs informed appellant that the evidence of record was insufficient to support his claim and advised as to the type of factual and medical evidence required.

By decision dated December 5, 2002, the Office denied appellant's claim on the basis that he failed to establish fact of injury.¹

The Board finds that appellant has not established that he sustained an injury in the performance of duty on October 18, 2002.

To establish that an injury was sustained in the performance of duty in an occupational disease claim, a claimant must submit the following: (1) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; (2) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; and (3) medical evidence establishing that the

¹ The Board notes that, subsequent to the Office's December 5, 2002 decision, the Office received additional evidence. The Board further notes that appellant submitted new medical evidence along with his appeal. However, the Board may not consider new evidence on appeal; *see* 20 C.F.R. § 501.2(c). This decision does not preclude appellant from submitting new evidence to the Office and request reconsideration pursuant to 5 U.S.C. § 8128(a).

employment factors identified by the claimant were the proximate cause of the condition for which compensation is claimed or, stated differently, medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the claimant.²

The medical evidence required to establish causal relationship, generally is rationalized medical evidence. Rationalized medical opinion evidence is medical evidence, which includes a physician's rationalized opinion on the issue of whether there is a causal relationship between appellant's diagnosed condition and the implicated employment factors. The opinion of the physician must be based on a complete factual and medical background of the claimant, must be one of reasonable medical certainty and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by appellant.³

In the present case, appellant did not submit any medical evidence in support of his claim for compensation based on his claimed back condition. The Office advised him of the type of evidence required to establish his claim, however, he failed to submit such evidence. Appellant failed to submit a rationalized medical opinion relating the cause of the alleged condition to factors of his federal employment.⁴ The only evidence in the record at the time of the December 5, 2002 decision were the October 22 and 28, 2002 disability slips signed by Dr. Davis, but this disability slips did not contain a probative, rationalized medical opinion diagnosing a condition or relating it factors of his federal employment. The disability slips merely stated that appellant was disabled from working.

Accordingly, as appellant failed to submit any probative, rationalized medical evidence in support of a causal relationship between his claimed condition and factors or incidents of employment, the Office properly denied appellant's claim for compensation.

² *Nicolette R. Kelstrom*, 54 ECAB ____ (Docket No. 03-275, issued May 14, 2003).

³ *Patricia J. Glenn*, 53 ECAB ____ (Docket No. 01-65, issued October 12, 2001); *Claudio Vazquez*, 52 ECAB 496 (2001).

⁴ *William C. Thomas*, 45 ECAB 591 (1994).

The April 17, 2002 decision of the Office of Workers' Compensation Programs is hereby affirmed.

Dated, Washington, DC
October 20, 2003

Colleen Duffy Kiko
Member

David S. Gerson
Alternate Member

Willie T.C. Thomas
Alternate Member